IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPLICATION NO.3 OF 1999

The Commissioner of Central Excise, Mumbai-II, Mumbai. .. Applicant

V/s

M/s. M.S. Patel & Co. .. Respondents

Shri. P.S. Jetly for the Applicant.
Shri. S.P. Bharti for the Respondents.

CORAM : DR.S.RADHAKRISHNAN & J.P.DEVADHAR, JJ.

DATE : 10TH JANUARY, 2006.

P.C.:

1. Heard the learned counsel for the Applicant and the learned counsel for the Respondents. Both the learned counsel for the Applicant and the Respondents have agreed that the judgment of the Supreme Court in **Collector of Central Excise, Jaipur Vs. Raghuvar (India) Ltd., 2000 (118) E.L.T. 311 (S.C.)** squarely covers the substantial question of law raised in the above application. The above application will have to be allowed and the substantial question of law sought to be raised in the above, reads as under :-

> Whether Rule 57-I of the Central Excise Rules 1944, as it stood prior

to amendment effected on 06.10.1988, is subject to the provisions of limitations Prescribed under Section 11A of the Central Excise Act, 1944, or whether it is independent of Section 11 A of aforesaid & can be invoked for recovery of modvat credits?

2. The learned counsel for the Applicant and the the learned counsel for the Respondents have categorically agreed that no need to call for further statement of the case and in view of the above decision of Supreme Court, the question is answered in the negative in favour of the Revenue and against the assessee and the Tribunal will act on the same, accordingly application is allowed.

3. The Tribunal will act accordingly in view of the present order.

(DR.S.RADHAKRISHNAN,J.)

(J.P.DEVADHAR,J.)